

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
FWP Headquarters – 1420 East 6th Avenue
Helena, MT
AUGUST 5, 2010

Commission Members Present: Bob Ream, Chairman; Dan Vermillion, Vice-Chairman; Willie Doll; Ron Moody.

Fish, Wildlife & Parks Staff Present: Joe Maurier, Director, and FWP Staff.

Guests: See August 5, 2010 Commission file folder for names of who signed in.

A Work Session was held to brief the Commission on the Future Fisheries process and on licensing changes. Due to the length of the meeting, the briefing on Aquatic Invasive Species was withdrawn from the agenda.

Topics of Discussion:

1. **Call to Order - Pledge of Allegiance**
2. **Approval of Minutes of July 8, 2010 Meeting**
3. **Approval of Commission Expenses through July, 2010**
4. **Commission Reports**
5. **Director's Report**
6. **Parks Biennial Fee Rule – Proposed**
7. **Smith River Biennial Rule – Proposed**
8. **Milltown Dam Project – Land Acquisitions and Park Development – Proposed**
9. **Makoshika State Park – Acceptance of 160-Acre In-Holding Donation – Proposed**
10. **Selection of Organizations to Auction 2011 Moose, Sheep, Goat, Deer & Elk Licenses – Final**
11. **2011 Fishing Regulation Changes - Proposed**
12. **2010 Early Season Migratory Bird Regulations – Final**
13. **2010 Furbearer Regulations and Quotas – Final**
14. **Swift Fox Translocation – Final**
15. **2010 Bison Quotas – Final**
16. **2010 Late Season Waterfowl Seasons/Closures – Proposed**
17. **Cottonwood Bend Conservation Easement (Region 6) – Final**
18. **Lower Beaver Creek Conservation Easement (Region 6) – Final**
19. **Spotted Dog Acquisition – Final**
20. **Northern Sage Grouse Augmentation Project with Alberta – Endorsement**
21. **Open Microphone – Public Opportunity to Address Additional FWP Issues**

1. **Call to Order - Pledge of Allegiance.** Chairman Bob Ream called the meeting to order at 8:40 a.m. and led the Pledge of Allegiance.

2. **Approval of the Commission Meeting Minutes of July 8, 2010.**

Action: It was moved and seconded to approve the July 8, 2010 minutes. Motion carried.

3. **Approval of the July, 2010 Commission Expense Report.**

Action: It was moved and seconded to approve the expense report as presented. Motion carried.

4. Commission Reports

Commissioner Vermillion spoke of the grizzly bear attack that occurred outside Cooke City and how he had heard positive comments on how well the Department handled the situation. The Yellowstone River has plenty of water and the fishing is good, however he has received phone calls regarding the increase in jet boat traffic on the Yellowstone. The jet boats are noisy and float fisherman are concerned. There is a great deal of support for the Sixteen Mile project.

Commissioner Doll stated that the Fred Robinson Bridge project is going well, as is the McNeil Slough project. He said a petition to ban free-range roaming of bison in Phillips and Valley Counties has generated 1,500 signatures.

Commissioner Moody stated that he had attended the recent PLPW meeting, and is excited about their work on development of a realistic plan to establish a dispute resolution process. It is innovative and unprecedented. They are also working on a concept for resource sharing between sportsmen and landowners who are not in the Block Management Program. He also noted that jet boats were banned at one time as the result of an Administrative Rule process.

5. Director's Report.

Director Maurier praised the FWP staff who dealt with the gruesome aftermath of the grizzly bear attack. There was a lot of work behind the scenes and in working with the media. Director Maurier acknowledged Ron Aasheim for a great job in managing the questions and demands regarding this incident.

The Director noted that Adam Brooks, FWP's Federal Aid Coordinator, has accepted a job in Alaska with the USFWS, and will be leaving the Department. Brooks has been a great asset to the agency and will be missed. (Brooks has since turned down the position).

The WAFWA Conference was held in Alaska in July. This conference provides the opportunity to exchange information with other resource agencies. FWP will host this conference in the summer of 2011 at Big Sky.

The Tri-State meeting will be held in mid-August in Wyoming.

The AFWA Conference is in September in Michigan.

Four tribes have declared treaty rights for hunting bison. He asked Bob Lane, FWP Legal Counsel, to speak to the situation.

Bob Lane, FWP Legal Counsel, explained that FWP has attempted to work with the tribes in developing agreements and organizing hunts in the Yellowstone Park area, but it is frustrating because specific agreements cannot be reached. This year has been somewhat more fruitful because the tribes have agreed to appoint two people to a committee that will work with FWP on development of an agreement.

6. Parks Biennial Fee Rule – Proposed. Chas VanGenderen, FWP Parks Division Administrator, stated that the Parks Division is facing significant financial challenges. There has not been a substantial fee increase since 2002, and there is also a need to streamline the rules to provide consistent interpretation by everyone. Many fee options have been discussed. He presented the proposals.

Action: Vermillion moved and Moody seconded the motion to approve the tentative parks biennial fee rule pending public comment.

Ream said it concerns him that senior citizens with the large motorhomes receive a 50% discount in campsites.

VanGenderen said the 50% senior discount is statutorily set.

Chairman Ream asked for public comment.

Action on Motion: Motion carried.

7. Smith River Biennial Rule – Proposed. Roger Semler, Parks Division Chief of Operations, said the biennial rule establishes fees, permit requirements, and associated rules for private and commercial float trips on the Smith River from Camp Baker to Eden Bridge, and enables FWP to the Smith River State Park Recreation Management Plan. The rule has been streamlined to improve consistency and understanding, and to increase floater opportunities. Highlights include a one-year waiting period for successful applicants during peak season (May 15 – July 15), reallocation of all cancelled permits, minimum application age of 12, nonrefundable permit application fee, Super Permit Lottery, modification of outfitter trip cancellation process, and modest fee increases.

Action: Vermillion moved and Moody seconded the motion to approve the tentative Smith River biennial fee rule pending public comment.

Chairman Ream asked for public comment.

Bruce Simon said the process began over three years ago and care must be taken when making changes that might lower the level of satisfaction. He shared his many opinions of the various components of the proposed rule change at length.

Bob Lane, FWP Legal Council, refuted Simon's complaints regarding public notification of rules. FWP notifies the public of rule changes as well as provides extensive opportunity for comment through a variety of avenues.

Action on Motion: Vermillion amended his motion to approve the tentative Smith River biennial fee rule pending a 45-day public comment period. Doll seconded the amendment. Motion carried.

8. Milltown Dam Project – Land and Park Development – Proposed. Chas VanGenderen, FWP Parks Division Administrator, explained that FWP proposes development of a state park at the Milltown Dam site near the confluence of the Blackfoot and Clark Fork Rivers west of Missoula. The remediation and restoration effort at this site is one of the nation's most high-profile cleanup projects, and this proposal would protect and insure perpetual public use of the restored natural resources along these rivers. FWP, the Milltown Redevelopment Working Group, and Missoula County solicited funds from the Natural Resource Damage Program for this project, of which approximately \$2.6 million was approved in early 2010. If approved by the Commission, an Environmental Assessment would be written and distributed for public comment. Lee Bastian, FWP Region 2 Parks Manager, narrated a power point exuding the finer points of the acquisition.

Action: Vermillion moved and it was seconded to endorse the Department's recommendation to proceed with the land acquisitions at the Milltown site utilizing the NRD funding source, and proceed with development of the Milltown site as a state park.

Chairman Ream asked for public comment.

Peter Nielsen, Missoula, supported the proposal.

Gary Matson, Milltown Redevelopment Working Group, was involved with the superfund working group since it was organized seven years ago. He emphasized that the project has received support both locally and in Missoula. It will require management, and they understand the need for long-term funding.

Action on Motion: Motion carried.

9. Makoshika State Park – Acceptance of 160-Acre in-Holding Donation – Proposed. Chas VanGenderen, FWP Parks Division Administrator, explained that Mrs. Jerree Scheitlin wishes to donate 160 acres of land to FWP. The parcel, known as the McCarty in-holding, is located within the boundaries of Makoshika State Park, and it is the wish of Mrs. Scheitlin that FWP become the final beneficiary of this property. Ms. Scheitlin is the last living descendent of A.J. and Katherine McCarty, prominent Glendive residents who donated land to Dawson County in the 1940's with the stipulation that it become part of a park. That land subsequently became a part of Makoshika State Park. The original family cabin and this quarter section of land was kept by the McCarty family as a private refuge. For the past 57 years, Makoshika State Park has been contractually obligated to this property through a yearly recreational easement.

Action: Doll moved and Vermillion seconded the motion to approve the Department's recommendation to receive the gift of the McCarty quarter-section in-holding and all its associated improvements for the immediate benefit of all current and future visitors to Makoshika State Park. Motion carried.

10. Selection of Organizations to Auction 2011 Moose, Sheep, Goat, Deer & Elk Licenses – Final. Hank Worsech, Licensing Bureau Chief, presented the information. The annual rules that establish the criteria and the process for selecting organizations to conduct the moose, sheep, goat, mule deer and elk license auctions/lotteries were adopted by the Commission in June. The Department subsequently solicited proposals from interested parties to conduct the auctions/lotteries. Proposals for the 2011 licenses are decided upon by the Commission at this meeting -- the Department does not make specific recommendations. The Wild Sheep Foundation applied for the sheep, moose and goat licenses, the Mule Deer Foundation applied for the mule deer and sheep licenses, the Rocky Mountain Elk Foundation applied for the elk and moose licenses, and the Safari Club International Great Falls applied for the goat and moose licenses.

Action: Vermillion moved and Doll seconded the motion to award the 2011 Elk and Moose licenses to the Rocky Mountain Elk Foundation, the 2011 Mule Deer license to the Mule Deer Foundation, the 2011 Sheep license to the Wild Sheep Foundation, and the 2011 Goat license to the Safari Club International.

Chairman Ream asked for comment from the applicants.

Corey Halvorson, SCI Great Falls, thanked the Commission/Department for this opportunity. He said they had also applied for the moose license and asked for consideration on that. They feel they can exceed what has been raised in the past. They could offer this opportunity to the whole world, and they could take it to the Reno convention, but they opted not to. They feel it is a Montana thing – keep it close to home. It isn't necessary to go to the national or international level to gather money. They propose to work directly with SCI International, to advertise in magazines that reach 45,000 people, through the SCI website, through electronic mailings to 190 chapters, and through outdoor articles.

Jim Weatherly, MT Wild Sheep Foundation, said they had asked for bighorn sheep, moose and goat tag. They would like the opportunity to offer the tags in Reno. They appreciate the award of the sheep tag, but would like the others as well.

Scott Westphal, RMEF, said they have completed many projects. They have been lucky enough to receive elk and moose tags in the past and appreciate that. Their 27th anniversary will be this year and they will be at the convention in Reno where there will be 20,000 people, and they feel they can sell the tags at a high return. They also requested the moose tag as they have done a good job on that in the past too. They want to share Montana's assets with other states. They plan to utilize the worldwide website, Bugle magazine, and mailings to 55,000 people.

Action on Motion: Motion carried.

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Dave Risley, Fish and Wildlife Division Administrator, briefed the Commission on discussions held at the WAFWA Convention in Alaska. There were recommendations on wild sheep transplants, and discussions on how to get the Federal government to be more efficient in their demand of state agency's time in the many partnerships. There were also discussions regarding the Endangered Species Act where a large concern is that some of the petitioners use climate change as a justification for listing, and if that becomes a mechanism, the Act will become a regulatory program rather than a recovery program. Lead shot has been greatly debated and a petition was submitted to the EPA to move to non-toxic shot.

**11. 2011 Fishing Regulation Changes – Proposed.** Bruce Rich, FWP Fisheries Division Bureau Chief, explained that the fishing regulation process is based on a four-year cycle, where the first year of each cycle is dedicated to actively soliciting ideas for changes from the public. During the three years of the "off cycle", ideas are predominantly solicited from biologists, fish managers and enforcement personnel. Proposals developed during off-cycle years are proposed to the Commission only if they meet certain criteria: achieve certain enforcement needs, provide clarification for regulations, are important for the conservation of a fish species, are making changes to regulations no longer relevant, or fulfill direction provided in management plans. Recommendations are as follows.

**Note: new language is in italics.** Deleted language has a strike-through line through it.

#### **WESTERN DISTRICT**

##### **FLATHEAD LAKE**

- Catch-and-release for cutthroat trout
- Whitefish: 100 daily and in possession
- Lake trout: ~~50~~ **100** daily and in possession, only 1 over 36 inches, and all fish 30 to 36 inches must be released.
- A Flathead Indian Tribal Permit is required to fish on the southern half of the lake

**Rationale:** The Flathead Fisheries Co-Management Plan calls for maximizing harvest of small lake trout to benefit native fish using angler harvest. Anglers seldom harvest 50 lake trout during regular fishing. However, during the Mack Days fishing events some anglers are hitting the current 50 fish limit by mid-day and have to stop fishing. For example, during the spring Mack Days this year, the organizers recorded 118 lake trout limits (50 fish) being caught, so clearly more fish would have been harvested by these anglers if the limit had been 100 fish. This regulation change will help achieve harvest goals identified in the Plan aimed at

protecting native species, particularly bull trout. The Flathead Reservation Fish and Wildlife Board voted on July 21, 2010 to recommend to the Confederated Salish and Kootenai Tribal Council and FWP Commission that this regulation be tentatively adopted and released for public comment as part of the Flathead Fisheries Co-Management Plan.

## GEORGETOWN LAKE

(see special season exceptions for the South and East shorelines)

- Open third Saturday in May through March 31.
- ~~Catch-and-release for brook trout.~~
- Salmon: no daily or possession limit.
- Combined Trout: 5 daily and in possession, *only two of which may be brook trout.*

### South and East shorelines

- Closed to fishing from the shore or within 100 yards of the shore April 1 through June 30. The closed area extends from a point 200 yards west of Denton's Point Marina (along the shore, including all of Stuart Mill Bay) to a point 200 yards north from the mouth of North Fork Flint Creek.

### Tributaries to Georgetown Lake (Hardtla, North Fork Flint, and Stuart Mill Creeks)

- Open July 1 through November 30.
- Catch-and-release for brook trout.

**Rationale:** The brook trout population declined in recent years, reaching a low in 2003 when none were caught by anglers in the Department's creel census. An Environmental Assessment (EA) was then written to propose the stocking in response to declining numbers, and FWP began stocking brook trout in 2004. Concurrently, a catch-and-release regulation was enacted to protect remaining wild fish and allow the population to rebound. Gill net catch rates have increased from 0.3 to 3.0 fish per net night since the beginning of stocking. As indicated in the EA, FWP would consider harvest again if brook trout numbers rose to the point that they comprised between 10-15% of the trout in the gill net catches. This requirement was met in 2008, when brook trout comprised 13% of the trout in the net catches. In addition, many anglers have indicated they would like to resume harvest of brook trout. This regulation change will allow limited brook trout harvest again in the lake. Stocking of brook trout will continue, with a target rate of 35,000 fish per year.

## LAKE KOOCANUSA

- *Hook and Line: 1 rod and/or line with up to 2 hooks (includes fishing from boat, shore or on ice)*
- Closed to burbot (ling) fishing January 15 to March 1.
- Salmon: 50 daily and 100 in possession
- Bull trout: 1 daily and in possession from June 1 through February 28, ~~maximum of 2~~ 1 fish per license year. **Catch-and-release the rest of the year. A Lake Koocanusa Bull Trout Catch Card must be in possession when fishing for bull trout.** See Special Licenses requirements for application information. All bull trout must be released immediately or killed and counted as your limit when harvest is allowed. It is unlawful to possess a live bull trout for any reason.

**Rationale:** Although bull trout are listed as "threatened" under the Endangered Species Act, the U.S. Fish and Wildlife Service authorized an experimental sport fishery for bull trout at Lake Koocanusa in 2004 because the fishery was deemed to have reached recovery goals. FWP uses bull trout red counts and gill net catches to assess population trends, and both indicate declines beginning in 2005-2006 and continuing through 2009. The impact of angling on the population is gauged by the survey of bull trout card holders. The most recent estimate of harvest and catch (2008-2009 season) for card holders was 295 and 1,897 fish, respectively. These proposed changes should help stabilize the population if angling is contributing to the decline. A reduction of two lines to a single line will require anglers to focus on a target species and decrease the chance that anglers fishing for other species capture bull trout either incidentally or by "prospecting" with the additional line. This will reduce catch-and-release mortality, which British Columbia provincial biologists estimate may be as high as 21%. The intent of reducing the annual harvest from 2 bull trout to 1 is to reduce direct mortality.

## ROGERS LAKE

- ~~Combined Trout: 5 daily and in possession, only one may be a grayling.~~

**Rationale:** This regulation was intended to protect a genetic reserve of Red Rocks grayling which were stocked in the lake. Spawning of these fish in the inlet stream was also inconsistent, and the restriction was needed to maximize spawning potential. Since then, genetic analysis has confirmed that non-Red Rocks grayling were actually stocked. Due to this genetic contamination, the harvest restriction is no longer needed. This change returns Rogers Lake to the standard western district Combined Trout limit.

#### **MIDDLE FORK FLATHEAD RIVER DRAINAGE**

##### **All streams within the wilderness**

- Combined Trout: 3 daily and in possession, none over 12 inches in rivers and streams, no size limit in lakes. Includes rainbow trout, cutthroat trout and grayling.

##### **Non-wilderness portion**

- *Combined Trout: 5 daily and in possession*
- Closed to angling June 1 through August 30 within a 150-yard radius of the Bear Creek stream mouth.
- Extended whitefish season and catch-and-release for trout open December 1 to third Saturday in May with artificial lures and/or maggots only.
- Catch-and-release for cutthroat trout.
- Montana/Glacier National Park boundary is the ordinary high water mark on the park side of the river.

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#### **NORTH FORK FLATHEAD RIVER**

- *Combined Trout: 5 daily and in possession*
- Closed to angling June 1 through August 30 within a 150-yard radius of the Big Creek stream mouth.
- Extended season for whitefish and catch-and-release for trout open December 1 to third Saturday in May with artificial lures and/or maggots only.
- Catch-and-release for cutthroat trout.
- Montana/Glacier National Park boundary is the middle of the river.

**Rationale:** The Combined Trout (rainbow trout) limit for the mainstem Flathead River and Glacier National Park is 5 fish, any size. However, the North and Middle forks Flathead are under the Western District standard Combined Trout Limit of 5 fish, only 1 >14". This creates a problem most acutely in the North Fork Flathead where the Park boundary is the middle of the river. Anglers could legally harvest 2 or more rainbows >14" in Park waters but be illegal as they float into state waters (only 1 >14"). This proposed change would make regulations consistent throughout the upper Flathead drainage. It would also help conserve westslope cutthroat trout by encouraging harvest of rainbow trout. There has been a significant increase in hybridization with rainbow trout in recent years, and a study published in 2008 showed 17 of 31 cutthroat samples in the North Fork had some degree of hybridization.

*Action: Vermillion moved and Moody seconded the motion to approve the recommended 2011 fishing regulation changes for the Western District. Motion carried.*

#### **CENTRAL DISTRICT**

East Gallatin River, Gallatin River, Jefferson River, Madison River (Missouri River Reservoirs handled separately)

*Action: Vermillion moved and Moody seconded the motion to "exclude the Missouri-based reservoirs, but on the Yellowstone River above Huntley Bridge, require three brown trout or one rainbow under 18 inches and 1 brown trout or 1 rainbow over 26 inches to create a larger fish size still allowing for trophy size and he has discussed this with the fishery biologists and primarily it is because of timing issues and it is important for managing trout issues". Motion carried.*

#### **CANYON FERRY RESERVOIR**

- *Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession, any size.*

- Walleye: ~~20~~ 10 daily, *no more than 4 over 16 inches*, and ~~40 in possession~~, only 1 over 28 inches. *Possession limit is twice the daily limit.*
- Yellow perch: 15 daily and in possession
- *Northern pike: No limit.*
- Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice only.

**Rationale:** These regulation changes meet the management objectives of the new 10 year Upper Missouri Reservoir Fisheries Management Plan for walleye, brown trout and northern pike in Canyon Ferry Reservoir. *Walleye:* Public support during the development of the management plan was very strong for adoption of a regulation that provides additional protection of larger walleye considered more desirable for harvest. Biological data and modeling shows that a slight reduction in exploitation (harvest) rates may provide for a larger segment of the population to populate larger size classes. This regulation change honors this public desire by proposing to limit harvest to no more than 4 walleye greater than 16 inches and only one of which could be over 28 inches in length. *Brown trout:* The decreased abundance of brown trout since the mid 1980s is probably attributable to drought, whirling disease, turbine installation at Toston Dam, and increased competition with the wild strains of rainbow trout. Densities may currently be so low that populations may not be able to recover without eliminating angler harvest. Currently, brown trout are allowed to be harvested in Canyon Ferry under the Central District Standard Daily and Possession limits of 5 daily and 10 in possession. This also standardizes the brown trout limit on all three system reservoirs. *Northern pike:* Biological data would suggest that the addition of another top-level predator in high densities in the reservoir complex would have significant impacts to the forage base. Therefore, maximizing the potential harvest of this species is the most cost-effective tool to ensure the population in the reservoir system does not dramatically increase.

## **EAST GALLATIN RIVER**

### **Entire river**

- Open entire year downstream from the mouth of Bozeman (Sourdough) Creek.
- *Northern pike: No limit*

**Rationale:** FWP used fish toxicants to remove northern pike from a pond near Manhattan in 2007 that was a spawning area and source for northern pike to pioneer into other parts of the drainage. The continued presence of this top-level predator in this stream is incompatible with a system managed exclusively for trout. Therefore, maximizing the potential harvest of this species is the most cost-effective tool to ensure the population in the drainage does not impact trout populations. Currently, Central District Standard limits apply here (10 daily and in possession). This regulation change will be consistent with changes for the other two forks of the Missouri River and in the Missouri River down to Holter Dam.

## **GALLATIN RIVER**

### **Entire river**

- Open entire year
- *Northern pike: No limit*

**Rationale:** The presence of northern pike in this river would be incompatible with a system managed exclusively for trout, and pike can move unimpeded throughout the upper Missouri River above Toston Dam and into the Gallatin River.. Therefore, maximizing the potential harvest of this species is the most cost-effective tool to ensure the population in the drainage does not impact trout populations. Currently, Central District Standard limits apply here (10 daily and in possession). This regulation change will be consistent with changes for the other two forks of the Missouri River and in the Missouri River down to Holter Dam.

## **HAUSER RESERVOIR**

### **Including Canyon Ferry Dam tailwater and Lake Helena**

- Combined Trout and Salmon: 5 rainbow trout and salmon daily and in any combination and 10 rainbow trout and salmon in possession in any combination.
- Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession, any size.
- Walleye: ~~40~~ 20 daily, only 1 over 28 inches. Possession limit is twice the daily limit.



- Yellow perch: ~~50~~ 25 daily and no possession limit.
- *Northern pike: No limit.*
- Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice only.

**Rationale:** These regulation changes meet the management objectives of the new 10 year Upper Missouri Reservoir Fisheries Management Plan for walleye, yellow perch and northern pike in Hauser Reservoir. *Walleye:* Biological data shows that a substantial increase in exploitation rates (angler harvest) is required to protect the forage base. Currently, flushing in the system has greatly increased the number of small walleye in Hauser Reservoir, and this regulation represents an initial effort to reduce numbers of these small fish. *Yellow perch:* Populations of this species have been limited by flushing, habitat conditions, predation, and possible competition with kokanee. Record high walleye abundance due to flushing from Canyon Ferry is also a significant limiting factor to yellow perch abundance. Dropping the bag limit to 25 will allow evaluation of angler harvest and determine if harvest is a significant limiting factor. *Northern pike:* Biological data would suggest that the addition of another top-level predator in high densities in the reservoir complex would have significant impacts to the forage base. Therefore, maximizing the potential harvest of this species is the most cost-effective tool to ensure the population in the reservoir system does not dramatically increase.

## HOLTER RESERVOIR

### Up to American Bar Gulch (approx. 4.6 miles downstream from Hauser Dam)

- ~~Open entire year~~
- Combined Trout and Salmon: 5 rainbow trout and salmon daily and in any combination and 10 rainbow trout and salmon in possession in any combination.
- Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession, any size.
- Walleye: ~~6~~ 10 daily, ~~includes 5 under 20 inches and only 1 over 28 inches, and all fish between 20 and 28 inches must be released.~~ Possession limit is twice the daily limit.
- Yellow perch: ~~50~~ 25 daily and no possession limit.
- *Northern pike: No limit.*
- Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice only.

**Rationale:** The deletion of the “Open entire year” bullet is meant to reduce confusion because reservoirs are open all year as part of the District-wide regulations, and this is the only reservoir with this exception noted. The other regulation changes meet the management objectives of the new 10 year Upper Missouri Reservoir Fisheries Management Plan for walleye, yellow perch and northern pike in Holter Reservoir. *Walleye:* Biological data shows that a substantial increase in exploitation rates (angler harvest) is required to protect the forage base. Currently, flushing in the system has greatly increased the number of small walleye in Holter Reservoir, and this regulation represents an initial effort to reduce numbers of these small fish, while maintaining a trophy component to the fishery. *Yellow perch:* High water years in the late 1990s and expansion of the Canyon Ferry walleye fishery have had detrimental effects to the Holter yellow perch population. Average perch abundance in fall gillnets from 1986-1996 averaged 13.3 perch per net, compared to 2.45 per net from 1997-2008. Given continued declines in perch abundance, more restrictive bag limits are judged to be necessary to further protect the perch population. *Northern pike:* Biological data would suggest that the addition of another top-level predator in high densities in the reservoir complex would have significant impacts to the forage base. Therefore, maximizing the potential harvest of this species is the most cost-effective tool to ensure the population in the reservoir system does not dramatically increase.

## JEFFERSON RIVER

### Entire river

- Open entire year
- *Northern pike: No limit*

**Rationale:** The presence of northern pike in this river would be incompatible with a system managed exclusively for trout, and pike can move unimpeded throughout the upper Missouri River above Toston Dam and into the Jefferson River. Therefore, maximizing the

potential harvest of this species is the most cost-effective tool to ensure the population in the drainage does not impact trout populations. Currently, Central District Standard limits apply here (10 daily and in possession). This regulation change will be consistent with changes for the other two forks of the Missouri River and in the Missouri River down to Holter Dam.

#### **LAKE HELENA**

- Combined Trout and Salmon: 5 rainbow trout and salmon daily and in any combination and 10 rainbow trout and salmon in possession in any combination.
- Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession, any size.
- Walleye: ~~40~~ 20 daily, only 1 over 28 inches. Possession limit is twice the daily limit.
- Yellow perch: ~~50~~ 25 daily and no possession limit.
- *Northern pike: No limit.*
- Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice only.

**Rationale:** These regulation changes meet the management objectives of the new 10 year Upper Missouri Reservoir Fisheries Management Plan for walleye, yellow perch and northern pike in Hauser Reservoir. . Lake Helena and Hauser fishing regulations are the same because of Lake Helena's connectivity and seasonal use by migratory fish from Hauser Reservoir. *Walleye:* Biological data shows that a substantial increase in exploitation rates (angler harvest) is required to protect the forage base. Currently, flushing in the system has greatly increased the number of small walleye in Hauser Reservoir, and this regulation represents an initial effort to reduce numbers of these small fish. *Yellow perch:* Populations of this species have been limited by flushing, habitat conditions, predation, and possible competition with kokanee. Record high walleye abundance due to flushing from Canyon Ferry is also a significant limiting factor to yellow perch abundance. Dropping the bag limit to 25 will allow evaluation of angler harvest and determine if harvest is a significant limiting factor. *Northern pike:* Biological data would suggest that the addition of another top-level predator in high densities in the reservoir complex would have significant impacts to the forage base. Therefore, maximizing the potential harvest of this species is the most cost-effective tool to ensure the population in the reservoir system does not dramatically increase.

#### **MADISON RIVER**

##### **Ennis Dam to the mouth**

- Open entire year
- *Northern pike: No limit*

**Rationale:** The presence of northern pike in this river would be incompatible with a system managed exclusively for trout, and pike can move unimpeded throughout the upper Missouri River above Toston Dam and into the Madison River. Therefore, maximizing the potential harvest of this species is the most cost-effective tool to ensure the population in the drainage does not impact trout populations. Currently, Central District Standard limits apply here (10 daily and in possession). This regulation change will be consistent with changes for the other two forks of the Missouri River and in the Missouri River down to Holter Dam.

#### **MISSOURI RIVER**

##### **Entire river**

- Open entire year
- Catch-and-release for cutthroat trout

##### ***Confluence of Madison and Gallatin Rivers to Toston Dam***

- *Northern pike: No limit*

##### **Toston Dam to Canyon Ferry Reservoir**

- ~~Combined Trout: catch-and-release for brown trout between 18 and 24 inches.~~

- *Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession, any size.*
- Walleye: ~~20~~ 10 daily, no more than 4 over 16 inches, and ~~40 in possession~~, only 1 over 28 inches. Possession limit is twice the daily limit.
- Northern pike: No limit.
- Localized spawning areas closed as posted from March 1 through June 15.

#### **Canyon Ferry Reservoir**

- *Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession, any size.*
- Walleye: ~~20~~ 10 daily, no more than 4 over 16 inches, and ~~40 in possession~~, only 1 over 28 inches. Possession limit is twice the daily limit.
- Yellow perch: 15 daily and in possession
- Northern pike: No limit.
- Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice only.

#### **Canyon Ferry Dam to Hauser Dam (includes Hauser Reservoir, Lake Helena and Canyon Ferry tailwaters)**

- Combined Trout and Salmon: 5 rainbow trout and salmon daily and in any combination and 10 rainbow trout and salmon in possession in any combination.
- Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession, any size.
- Walleye: ~~40~~ 20 daily, only 1 over 28 inches. Possession limit is twice the daily limit.
- Yellow perch: ~~50~~ 25 daily and no possession limit.
- Northern pike: No limit.
- Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice only.

#### **Hauser Dam to Holter Reservoir (Hauser Dam downstream to American Bar Gulch, approx. 4.6 miles)**

- Combined Trout: Standard river/stream limits apply, except catch-and-release for brown trout.
- Walleye: ~~6~~ 10 daily, ~~includes 5 under 20 inches and~~ only 1 over 28 inches, and all fish between 20 and 28 inches must be released. Possession limit is twice the daily limit.
- Northern pike: No limit.

#### **Holter Reservoir (American Bar Gulch downstream to Holter Dam)**

- ~~Open entire year~~
- Combined Trout and Salmon: 5 rainbow trout and salmon daily and in any combination and 10 rainbow trout and salmon in possession in any combination.
- Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession, any size.

- Walleye: ~~6 10~~ daily, ~~includes 5 under 20 inches and~~ only 1 over 28 inches, *and all fish between 20 and 28 inches must be released.* Possession limit is twice the daily limit.
- Yellow perch: ~~50~~ 25 daily and no possession limit.
- *Northern pike: No limit.*
- Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice only.

#### **Holter Dam to mouth of Dearborn River**

- Combined Trout: 1 rainbow trout (any size) daily and in possession and 1 brown trout (22-inch minimum) daily and in possession.
- *Walleye: 10 daily and 20 in possession.*

#### **Craig Bridge to Sheep Creek Bridge**

- Spearing: open for up to 5 whitefish daily with rubber or spring-propelled spears by persons swimming or submerged.

#### **Mouth of Dearborn River to Cascade Bridge**

- Combined Trout: 3 rainbow trout daily and in possession, only 1 over 16 inches and 1 brown trout daily and in possession, 22-inch minimum.
- *Walleye: 10 daily and 20 in possession.*

#### **Morony Dam to Fort Benton**

- Sauger/Walleye: 5 daily, only 1 may be a sauger. Possession limit is 10, only 2 may be sauger.
- Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice only.

**Rationale:** *Confluence of Madison/Gallatin rivers to Toston Dam:* Northern pike have become established in the Toston Reservoir in recent years, and conditions allow for successful reproduction. The first efforts to quantify their abundance in the reservoir took place in 2009, and a total of 121 pike were captured during 13 days of gillnetting, at a rate of 1.3 pike per net hour. Currently, Central District Standard limits apply here (10 daily and in possession). This regulation will maximize the harvest of this species and reduce the number of pike that pass downstream through the dam into the Missouri River and reservoir system. Biological data would suggest that the addition of another top-level predator in high densities in the reservoir complex would have significant impacts to the forage base. *Toston Dam to Holter Dam:* These regulation changes meet the initial manage objectives of the new 10 year Upper Missouri Reservoir Fisheries Management plan for walleye, yellow perch, brown trout and northern pike. The changes (and rationale) to regulations for the river segments above each of the three reservoirs are the same as presented for the individual reservoirs, because these fish species can move freely between river and reservoir. *Holter Reservoir:* The deletion of the "Open entire year" bullet is meant to reduce confusion because reservoirs are open all year as part of the District-wide regulations. *Holter Dam to mouth of Dearborn River and Mouth of Dearborn River to Cascade:* Biological data shows that in some years the number of walleye in the Missouri River increase likely as a result of flushing from the upstream reservoirs. Considerable comment has been received during the planning process of the reservoir system requesting greater protection for the trout population from the potential of predation resulting from an increased walleye population. This change would allow increased harvest by anglers as a cost-effective tool to maintain low levels of walleye in these river reaches and to prevent expansion. NOTE: The names of the two sections between Hauser and Holter dams have been reworded for clarity.

Chairman Ream asked for public comment.

Mark Aagenes, Montana Trout Unlimited, said they support several of the changes, but have some concerns. They want no walleye limit on the section from Holter to Morony Dam as there is an unlimited supply of walleye there.

John Wilson, Pat Barnes Missouri River Chapter of Trout Unlimited, said they support amending the regulations to setting no walleye limits from Holter to Morony Dam.

Dennis Cates urged no limit from Holter to Morony Dam for economic reasons.

Dan Ellison, Helena, said he implored the Commission to change regulations to no limit on walleye from Holter Dam to Morony Dam.

Director Maurier said that he understands the comments, but if there is no limit, enforcement will be difficult, and other kinds of problems will develop.

*Action: Vermillion moved and Moody seconded the motion to approve the Department's recommendations on these reservoirs with the exception to remove the limit on walleyes from Holter to Black Eagle Dam. Motion carried.*

## EASTERN DISTRICT

### YELLOWSTONE RIVER

#### **I-90 Bridge at Billings to the mouth of the Bighorn River**

- Combined Trout: 5 daily and in possession, only 1 over 18 inches, includes cutthroat trout

#### ~~**I-90 Bridge at Billings to Huntley Diversion Dam**~~

- ~~• Hook and Line: 2 lines with 2 hooks per line all year~~

#### **I-90 Bridge at Billings to Cartersville Diversion Dam at Forsyth**

- Sauger/Walleye: 5 daily, only 1 may be a sauger. Possession limit is 10, only 2 may be sauger.

**Rationale:** The 2-line restriction was adopted in 2002 as an exception to the 6 lines allowed throughout the Eastern District, and was an attempt to protect the cutthroat trout FWP was stocking and trying to establish in this section of the river. These efforts have not been successful, and the stocking of cutthroat trout has ceased. Therefore the restriction on number of lines at this location is no longer needed or relevant. With the deletion of this exception, 6 lines will again be allowed in this section of the Yellowstone River.

*Action: Vermillion moved and Moody seconded the motion to approve the recommended 2011 fishing regulation changes for the Eastern District. Motion carried.*

#### **\* 12. 2010 Early Season Migratory Bird Regulations – Final.**

No recommended changes to the proposed regulations.

#### **\* 13. 2010 Furbearer Regulations and Quotas – Final.**

No recommended changes to the proposed regulations.

#### **\* 14. Swift Fox Translocation – Final.**

Has gone through EA process. Is the third and final translocation to Ft. Peck Reservation. No recommended changes to the proposed regulations.

#### **\* 15. 2010 Bison Quotas – Final.**

No recommended changes to the proposed regulations.

*\* Action: Doll moved and Vermillion seconded the motion to approve the Final 2010 Early Season Migratory Bird Regulations, the Final 2010 Furbearer Regulations and Quotas, the Final Swift Fox Translocation, and the Final 2010 Bison Quotas as proposed by FWP. Motion carried.*

**16. 2010 Late Season Waterfowl Seasons/Closures – Proposed.** Jeff Herbert, FWP Wildlife Division Assistant Bureau Chief, stated that Montana has been in a liberal package for 15 years. The proposals are as follows.

Late season migratory bird hunting regulations pertain to ducks, geese, swans, and coots. Montana participates in both the Central and Pacific Flyways and adheres to the federal frameworks established by the U. S. Fish and Wildlife Service in cooperation with the flyway councils. Frameworks are based on population status from winter surveys for geese and May population and habitat surveys for ducks.

Duck seasons use an adaptive harvest approach with three specific regulation packages (restrictive, moderate, liberal). Habitat conditions and population numbers are generally good, with total ducks 21 percent above the long-term average, mallards 12 percent above the long-term average, and pintails up 9 percent from last year. Other than calendar date shifts, the only change is an increase in the Central Flyway pintail daily bag from 1 to 2. Proposed season elements are listed below.

**Central Flyway**

- Youth Waterfowl Season: Sept. 25-26 (2 days)
- Duck, Coot and Tundra Swan (500 permits only) Season: Oct. 2–Jan. 6 (97 days)
- Ducks: Daily bag limit shall be 6 ducks or mergansers, possession limit twice daily limit. Daily bag limit shall not include more than 5 mallards no more than 2 of which may be hens, 2 redheads, 2 scaup, 2 hooded mergansers, 3 wood ducks, 2 pintails, and 1 canvasback.
- Coots: 15 daily, possession limit twice the daily limit
- Goose Season: Oct. 2 – Jan. 14 (105 days)
- Geese: Dark - 4 daily, possession limit twice the daily limit  
White - 6 daily, possession limit twice the daily limit  
Swan (500 permits only) season: Oct 2 – Jan. 6
- Falconry dates: Ducks and coots: Sept. 22 – Jan. 6; Geese: Oct. 2 – Jan. 14

**Pacific Flyway**

- Youth Waterfowl Season: Sept. 25-26 (2 days)
- General Waterfowl Season: Oct. 2–Jan. 14 (105 days)
- Scaup Season: Youth weekend and Oct. 2-Dec. 26 (86 days)
- Ducks: Daily bag limit shall be 7 ducks or mergansers, possession limit twice daily limit. Daily bag limit shall not include more than 2 hen mallards, 2 pintails, 2 redheads, 1 canvasback, and 3 scaup.
- Coots: 25 daily and in possession
- Geese: Dark - 4 daily, possession limit twice the daily limit  
White - 6 daily, possession limit twice the daily limit
- Swan (500 permits only) Season: Oct. 9–Dec. 1
- Falconry dates: Ducks, coots, and geese: Oct. 2 – Jan. 14

*Action: Moody moved and Doll seconded the motion to adopt the proposed late season migratory bird seasons and dates as recommended by the Department. Motion carried.*

**17. Cottonwood Bend Conservation Easement (Region 6) – Final.** Ken McDonald, FWP Wildlife Division Bureau Chief, explained that FWP proposes to purchase a conservation easement on the Cottonwood Bend property, which consists of approximately 159 acres of private land located two miles north of Hinsdale. The property runs along two miles the Milk River, and includes high-quality riparian habitat, wetlands, hay meadows and cropland. Together with FWP's Hart Conservation Easement and the proposed Lower Beaver Creek Conservation Easement, the public will have access to over 750 acres of contiguous prime Milk River habitat for hunting upland birds, waterfowl and white-tailed deer. FWP and the landowner have agreed on a price for the conservation easement at forty percent of the appraised fee value of the property which is in the range of \$175,000 - \$195,000. Funding will be from the Upland Game Bird Habitat Enhancement Program, State Wildlife Grant program, and other sources as needed. The environmental assessment on the proposed conservation easement generated five supporting comments and no opposition.

*Action: Vermillion moved and Moody seconded the motion to authorize FWP to purchase a conservation easement on the Cottonwood Bend property near Hinsdale. Motion carried.*

**18. Lower Beaver Creek Conservation Easement (Region 6) – Final.** Ken McDonald, FWP Wildlife Division Bureau Chief, explained that FWP proposes to purchase a conservation easement on the Lower Beaver Creek property, which consists of approximately 460 acres of private land located two miles northwest of Hinsdale. The property contains two miles of frontage along Beaver Creek, a Milk River tributary, and includes high-quality native riparian habitat, wetlands, hay meadows and managed cropland. Together with FWP's Hart Conservation Easement and the proposed Cottonwood Bend Conservation Easement, the public will have access to over 750 acres of contiguous prime Milk River valley-bottom habitat for hunting upland birds, waterfowl and white-tailed deer. FWP and the landowner have agreed on a price for the conservation easement of forty percent of the appraised fee value of the property which is in the range of \$400,000 - \$425,000. Funding will be from the Upland Game Bird Habitat Enhancement Program, State Wildlife Grant program, and

other sources as needed. The environmental assessment on the proposed conservation easement generated five supporting comments and no opposition.

*Action: Moody moved and Vermillion seconded the motion to authorize FWP to purchase a conservation easement on the Lower Beaver Creek property near Hinsdale. Motion carried.*

**19. Spotted Dog Acquisition – Final.** Ken McDonald, FWP Wildlife Division Bureau Chief, presented the proposal. FWP proposes to purchase the 27,616-acre Spotted Dog property, east of Missoula, from Rock Creek Cattle Company. FWP also would lease 10,260 acres of Department of Natural Resources and Conservation lands to establish a 38,000-acre wildlife management area between I-90 and Highway 12. Access is from Deer Lodge, Avon and Elliston. This land winters the largest concentration of elk in the Upper Clark Fork, and supports antelope, mule deer, moose and black bear. Its unique habitat feature is the second-largest block of unbroken native grasslands in a single private ownership west of the Continental Divide in Montana. West-slope cutthroat trout occur in Spotted Dog, O'Neil and Trout creeks. FWP would fund the project with a grant of \$16,574,009 from the Natural Resource Damage Program. FWP would pay the fair market value of \$15.2 million (\$550/acre). The 10-year DNRC grazing lease is valued at \$148,869, and a 5-year maintenance fund would total \$1,225,140.

FWP posted a draft environmental assessment, management plan and socio-economic assessment on its website and advertised a 30-day public review, which ended July 30. More than 108 people attended the hearing in Deer Lodge. Of those who testified, six supported, three opposed, and nine expressed concerns about proposed deviations from the normal NRDP grant process. Written comment to FWP reveals 10 in support, sixteen opposed, and three with specific concerns. Some oppose the state owning more land or believe there will be a loss to the county tax rolls. Powell County, the City of Deer Lodge, Rocky Mountain Elk Foundation, and Anaconda Sportsmen are on record in support, with some adjacent landowners. Other neighbors are concerned about more public use on Spotted Dog, elk damage, and access for historic private uses. One neighbor pulled out of Block Management in protest, citing rumors of bison introduction. Some have asked that grazing be retained as a management tool.

Director Maurier noted that the local newspaper, the Independent Record, published the story incorrectly. This acquisition clearly fits within the NRD program - FWP proposes to use \$15 million of. The \$550 per acre is a good price for land. FWP is aware of what the resource value is and if we didn't move quickly we might have lost the opportunity to buy it. The NRD board historically doles out smaller amounts of money, but in this case this acquisition is extremely valuable and needs to be acted on. The trustees can still deny it.

*Action: Vermillion moved and Moody seconded the motion to approve FWP's proposal to complete the purchase of the Spotted Dog property, including grazing in 2011 and 2012, pending the requested grant of NRDP funding.*

Chairman Ream asked for public comment.

Bill Pierce, Elliston, Powell County Planning Board, said this piece of property is a unique opportunity to take under public control. It is a great recreation resource. It is guaranteed that this land would be bought and developed within ten years if FWP does not buy it -- it fits under zoning regulations in the county.

Tim Aldrich, Hellgate Hunters and Anglers, said they are excited about the purchase. FWP has total support from them.

Ben Lamb, MWF, said they favor this acquisition. FWP has done a fantastic job in putting this acquisition together.

*Action on Motion: Motion carried.*

**20. Northern Sage Grouse Augmentation Project with Alberta – Endorsement.** Pat Gunderson, FWP Region 6 Supervisor, narrated a power point.

The Northern Shrub Steppe Initiative is a collaborative conservation effort involving Montana and the provinces of Alberta and Saskatchewan. Endorsed by the Western Association of Fish and Wildlife Agencies, the NSSI brings FWP, Alberta Sustainable Resource Development–Fish & Wildlife Division, and Saskatchewan Environment together to conserve and managing native grassland and sagebrush habitats and sagebrush-dependent wildlife in the northern Great Plains. This

initiative supports the Western Governors Association's Wildlife Corridors Initiative, which is intended to conserve important landscapes and crucial wildlife habitat while supporting responsible development activities.

Greater sage-grouse are a species of international concern in this region. Populations occupying the silver sagebrush habitat type across this portion of the northern Great Plains represent the northern most extension of the species range. Previous genetic work and on-going research have documented how sage-grouse are connected across the three jurisdictions. Habitat degradation and population declines have led to federal protection in Alberta and a recent "warranted but precluded" status under the Endangered Species Act across the species range in the western U.S. sage-grouse populations are quite limited in distribution and abundance in southeastern Alberta and southwestern Saskatchewan.

*Action: It was moved and seconded to endorse the development of a translocation proposal for future consideration*

## **21. Open Microphone – Public Opportunity to Address FWP Issues Not on Agenda.**

John Ottman, Missoula, is a consulting forester servicing Montana and Idaho. He feels FWP needs to put staff foresters on the payroll to manage the resources.

Chas VanGenderen, FWP Parks Division Administrator, discovered a typographical error in the Smith River rules that were proposed earlier in the day. The proposed rules stated that a person cancelling their permit "less than five days" before their launch date would be prohibited from applying for a permit the following season, when it should read "less than two days". He asked for Commission approval to include this correction in the already-approved rule so that the entire rule could be published in one action.

*Action: Vermillion moved and Doll seconded to reopen the Parks agenda item.*

*Action: Vermillion moved and Moody seconded the motion to redact the rule to correct it from stating that "a person cancelling their permit less than five days before their launch date would be prohibited from applying for a permit the following season", to "a person cancelling their permit less than two days before their launch date would be prohibited from applying for a permit the following season". Motion carried.*

*Vermillion moved and Moody seconded the motion to adjourn. Motion carried.*

The meeting adjourned at 4:30 p.m.

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After receiving word that Judge Molloy had issued a legal decision to place the Rocky Mountain gray wolf back on to the federal list of threatened and endangered species, the Commission reconvened the Commission meeting.

Action: Moody moved and Vermillion seconded the motion to reconvene the Commission meeting. Motion carried.

The Commission meeting reconvened at 4:45 p.m.

Judge Molloy's decision takes away state management of the wolf - federal law will guide Montana's wolf management options. A general wolf hunting season in Montana is now prohibited. Judge Molloy stated that because Wyoming still doesn't have adequate regulatory mechanisms to manage wolves, the wolf cannot be delisted in Montana and Idaho.

Action: Moody moved and Vermillion seconded the motion to encourage FWP to immediately appeal the ruling to the 9th Circuit Court and to aggressively seek management options with the U.S. Fish and Wildlife Service. Motion carried.

Action: Moody moved and it was seconded to adjourn. Meeting adjourned at 5:15 p.m.

Bob Ream, Chairman

Joe Maurier, Director